

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION**

(*)

In re:

CASE NO: 23-50513

Address: BARBARA R FRANK,
2253 MILLEDALE RD
FRONT ROYAL, VA
22630-7363

CHAPTER 13

Debtor.

PNC BANK, NATIONAL ASSOCIATION
Plaintiff,

v.

BARBARA R FRANK,
Debtor
ANGELA M. SCOLFORO (499275)
Trustee
Defendants.

NOTICE OF HEARING

PNC Bank, National Association, a creditor in this case, has filed papers with the court to object to the confirmation of the Chapter 13 plan with regard to certain property more particularly described in those papers which are attached.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you want the Court to consider your views on the Motion, then you or your attorney must:

M. Christine Maggard, VSB# 33824
Brock & Scott, PLLC
3825 Forrestgate Dr.
Winston-Salem, NC 27103
VABKR@brockandscott.com
Counsel for the Movant

File with the Court, at the address shown below, a written response. If you mail your response to the Court for filing, you must mail it early enough so the Court will **receive** it before December 5, 2023.

United States Bankruptcy Court
Harrisonburg Division
116 N. Main St., Room 223
Harrisonburg, VA 22802

You must also mail a copy of any such response to:

M. Christine Maggard, Esquire
Brock & Scott, PLLC
3825 Forrestgate Dr.
Winston-Salem, NC 27103

Attend the hearing to be held on January 11, 2024 at 9:45AM, before Judge Connelly. All parties connect using video conference instructions on the court website.

IF NO TIMELY RESPONSE HAS BEEN FILED OPPOSING THE REQUEST, THE COURT MAY GRANT THE MOTION.

IF YOU OR YOUR ATTORNEY DO NOT TAKE THESE STEPS, THE COURT MAY DECIDE THAT YOU DO NOT OPPOSE AND MAY ENTER AN ORDER GRANTING THE MOTION.

If you or your attorney do not take these steps, the Court may decide that you do not oppose and may enter an order granting the Motion.

Dated: November 14, 2023

/s/M. Christine Maggard
M. Christine Maggard, VA Bar No. 33824
Robert Oliveri, VA Bar No. 47247
Attorney for Creditor
BROCK & SCOTT, PLLC
3825 Forrestgate Drive
Winston Salem, NC 27103
Telephone: (844) 856-6646
Facsimile: (704) 369-0760
E-Mail: VABKR@brockandscott.com

CERTIFICATE OF SERVICE

The foregoing Notice was endorsed by and/or served upon all necessary parties pursuant to Local Rules by electronic notification and/or U.S. First Class Mail, postage pre-paid.

Suad Bektic
New Day Legal
20 B John Marshall St.
Warrenton, VA 20186
Counsel for Debtor

BARBARA R FRANK
2253 MILLEDALE RD
FRONT ROYAL, VA 22630-7363
Debtor

Angela M. Scolforo (499275)
P.O. Box 2103
Charlottesville, VA 22902
Trustee

/s/M. Christine Maggard
M. Christine Maggard, VA Bar No. 33824
Robert Oliveri, VA Bar No. 47247
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**UNITED STATES BANKRUPTCY COURT
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**IN RE:
BARBARA R FRANK
DEBTOR**

**CASE NO. 23-50513
CHAPTER 13**

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN

COMES NOW, PNC Bank, National Association, by and through its undersigned attorneys, and pursuant to 11 U.S.C. §§ 1322, 1324 and 1325 of Title 11, United States Code, hereby objects to the confirmation of the Debtor's Chapter 13 Plan (hereinafter "Plan"), and in support thereof would show:

1. On October 26, 2023, Debtor filed a voluntary petition in this Court under Chapter 13 of Title 11 of the United States Bankruptcy Code.
2. PNC holds a secured claim by virtue of a second position Deed of Trust lien dated June 15, 2007 on real property (the "Property") described in that Deed of Trust recorded in the county of Warren County, VA's Circuit Court Clerk's Office, and recorded and recorded on June 20, 2007, (the "Deed of Trust") with an address of 2253 Milldale Rd, Front Royal, VA 22630.
3. PNC holds or is otherwise entitled to enforce a promissory note (the "Note") secured by the Deed of Trust from the Debtor in the original principal amount of \$500,000.00 and dated June 15, 2007.
4. PNC intends to timely file a Proof of Claim with the approximate total debt of \$450,159.10.
5. PNC does not accept and objects to the Debtor's proposed Plan. As the Plan provides that the Debtor will make monthly payments in the amount of \$1,000.00 per month for

seven (7) months, \$466,223.13 per month for one (1) month. The Debtor's monthly net income, reflected in Debtor's schedule J, is \$-5,614.83. The Plan is not feasible as the Debtor's income is insufficient to cover the proposed Plan payments to the trustee and violates 11 U.S.C. §132.

6. PNC does not accept and objects to the Debtor's Plan as it proposes that the Debtor make Plan payments in the amount of \$1,000.00 per month for seven (7) months, \$466,223.13 per month for one (1) month. PNC further objects that the Plan is filed in bad faith as to the intended funding of the Plan as Schedule J reflects that the Debtor's combined monthly net income is \$-5,614.83; however, the Debtor's income, is speculative, and is otherwise insufficient to fund the Plan, pay the post-petition payments, and cure the arrears on this secured claim. The plan violates 11 U.S.C. Section 1325(a)(6) and (a)(7). Schedule J also states that the debtor expects to receive income/donation to her 501c3 Foundation to come current on first and second mortgage and carry her forward. The receipt of donations is speculative, as the appropriateness of the application of 501(c)(3) donations for the personal expenses of the debtor.

7. PNC does not accept and objects to the Debtor's Plan as upon information and belief, the Property is the Debtor's principal residence. PNC objects, pursuant to Bankruptcy Code § 1322(b)(2), to confirmation of the Plan as it impermissibly modifies the PNC's rights as a PNC and proposes to pay the PNC less than what is contractually due. Without an opportunity to have the property appraised, PNC is without sufficient information to conclude that there is no equity in the property and requires the issue of valuation to be preserved for this Court's consideration and the presentation of evidence.

8. PNC does not accept and objects to the Debtor's Plan as upon information and belief, the Property is the Debtor's principal residence. The Plan attempts to avoid PNC's lien under paragraph 3.4 of the plan and without the filing of an adversary proceeding.

WHEREFORE, PNC Bank, National Association respectfully requests the Court to deny

confirmation of the Debtor's Chapter 13 Plan and any other relief the Court deems just.

Dated: November 14, 2023

/s/M. Christine Maggard

M. Christine Maggard, VA Bar No. 33824

Robert Oliveri, VA Bar No. 47247

Attorney for Creditor

BROCK & SCOTT, PLLC

3825 Forrestgate Drive

Winston Salem, NC 27103

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BARBARA R FRANK
DEBTOR**

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CHAPTER 13**

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a true and exact copy of the foregoing Objection has been electronically served or mailed, postage prepaid on this day to the following:

BARBARA R FRANK
2253 MILLEDALE RD
FRONT ROYAL, VA 22630-7363

Suad Bektic, Debtor's Attorney
New Day Legal
20 B John Marshall St.
Warrenton, VA 20186
sbektic@newdaylegal.com

Angela M. Scolforo (499275), Bankruptcy Trustee
P.O. Box 2103
Charlottesville, VA 22902

Date: November 14, 2023

/s/M. Christine Maggard
M. Christine Maggard, VA Bar No. 33824
Robert Oliveri, VA Bar No. 47247
Attorney for Creditor
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